

California Regional Water Quality Control Board  
Santa Ana Region

August 26, 2005

ITEM NO. 8

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal Use – Jim Giardina, 15871 Prairie Way, Riverside, Riverside County, APN 280-250-006

DISCUSSION:

On July 19, 2005, Jim Giardina contacted staff regarding a proposed garage/workshop on his lot located at 15871 Prairie Way, Riverside. Mr. Giardina resides in a 4-bedroom, 2.5-bath single-family home at the site. An existing subsurface disposal system is utilized for the discharge of sanitary wastes from the existing house. The gross size of the lot is slightly less than one acre (40,946 sq. ft or 0.94 acre net). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of sanitary wastes.

Mr. Giardina proposes to add a bathroom to the garage/workshop. The proposed bathroom will include 1-toilet, 1-sink and 1-shower. Mr. Giardina proposes to add a second 750-gallon septic tank-subsurface disposal system for the discharge of sanitary wastes only from the garage/workshop. Mr. Giardina's property has a stream that flows continuously through his property. Due to the 100-foot setback requirement for the use of septic systems from the stream, Mr. Giardina is unable to construct the proposed garage/workshop near his existing home.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum of one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems in the groundwater of the Region.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that it was necessary to distinguish between "existing" developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSRs were adopted), and "new" developments. The Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989, or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to "new" developments.

The Board also recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSRs address these circumstances. The MLSRs distinguish between the types of additions to existing dwelling units. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSRs. However, the MLSRs state that any proposal to add a freestanding structure that would result in additional wastewater flows must be considered a "new" development, subject to the MLSRs. The proposed garage/workshop at the Giardina property would be a freestanding structure. As such, the project as a whole (the existing dwelling unit and proposed garage/workshop) must now be considered a "new" development to which the one-half acre minimum lot size requirement applies.

The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property, which would result in substantial additional wastewater flows.

Mr. Giardina's lot is slightly less than one acre in size (2,614 sq. ft short) and, therefore, staff was required to deny the request for a clearance for the project. Mr. Giardina was advised of another option identified in the Board's exemption criteria, which allows project proponents to implement an acceptable offset. Mr. Giardina could proceed with his proposed development if they connected another septic system (that would not otherwise be required to be connected to the sewer) to the sewer. Mr. Giardina states that he has tried to pursue the offset program by locating homeowners who could eliminate their septic systems; however, he indicates that he has been unable to locate a potential homeowner with whom to enter into an agreement.

#### RECOMMENDATION:

Approve Mr. Giardina's request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon  
Riverside County Environmental Health – Sam Martinez/Marc Haraksin  
Riverside County Building and Safety – Steve Dondalski  
Riverside County Planning – Mark Balys